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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/757,065	01/08/2001	Katsuhisa Kataoka	JA999-291	6585

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Ronald L Drumheller, Esq.
94 Teakettle Spout Road
Mahopac, NY 10541

EXAMINER	
PHAM, THOMAS K	

ART UNIT	PAPER NUMBER
2121	

DATE MAILED: 12/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/757,065	KATAOKA, KATSUHISA	
	Examiner	Art Unit	
	Thomas K Pham	2121	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *29 September 2004*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-5* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-5* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

Response to Amendment

1. This action is in response to request for re-consideration filed on 09/29/2004

2. Applicant's arguments with respect to claims 1 and 4 have been fully considered but they are not persuasive.

3. Applicant's arguments with respect to claims 2, 3 and 5 have been considered but are moot in view of the new ground(s) of rejection.

Quotations of U.S. Code Title 35

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claim Rejections - 35 USC § 102

8. Claims 1- 5 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,393,605 ("Loomans").

Regarding claim 1

Loomans teaches a method for starting an application program loaded from a server on a client machine, comprising the steps of:

a. loading an execution environment identifying applet from the server in response to an application program starting request made on the client machine (col. 5 lines 1-8, "When implemented in ... to a server computer");

b. loading, from the server, a code that the application program to be started on the client machine requires and a starting command for starting the application program, on the basis of a result obtained by of executing the execution environment identifying applet (col. 5 lines 9-31, "In response to the URL ... components not required at startup"); and

c. executing the starting command on the client machine and starting the application program (col. 6 lines 16-22, "a browser in resident in a client computer ... limited to e-commerce applications").

Regarding claim 2

Loomans teaches a method for starting an application program loaded from a server on a client machine, comprising the steps of: loading, from the server, a code that the application program to

be started on the client machine requires and a starting command for starting the application program, in response to an application program starting request made on the client machine (col. 5 lines 9-31, "In response to the URL ... components not required at startup"); and executing the starting command on the client machine and starting the application program (col. 6 lines 16-22, "a browser in resident in a client computer ... limited to e-commerce applications"). Loomans teaches the application engine determines which files will be loaded for the associated application or sub-application based on the client's operating environment (col. 7 lines 11-21, "It should be noted that ... components and data components") for the purpose of loading additional components required during a particular user sessions. It is considered that the step of determining is the same as the step of judging since both perform the same function in the same way and produce the same result. Note: the word "substantially" has not been used as a modifier in the above sentence.

Regarding claim 3

Loomans teaches with respect to the code which the application program requires and the starting command for starting the application program, the code which the application program requires is loaded from the server when the code which the application program requires is not present on the client machine (col. 7 lines 11-21, "It should be noted that ... components and data components").

Regarding claim 4

Loomans teaches a software product for starting an application program loaded from a server on a client machine, comprising:

a. an execution environment identifying software for identifying an execution environment from the server in response to an application program starting request made on the client machine (col. 5 lines 1-8, "When implemented in ... to a server computer");

b. a required code acquiring software for acquiring a code which the application program to be started on the client machine requires (col. 5 lines 9-31, "In response to the URL ... components not required at startup"); and

c. an application program starting software for executing a starting command for starting the application program on the client machine and thereby starting the application program (col. 6 lines 16-22, "a browser in resident in a client computer ... limited to e-commerce applications").

Regarding claim 5

Loomans teaches a software product for starting an application program loaded from a server on a client machine, comprising: a required code acquiring software for loading from the server a code which the application program to be started on the client machine requires and a starting command for starting the application program, in response to an application program starting request made on the client machine (col. 5 lines 1-8, "When implemented in ... to a server computer"); and an application program starting software for executing the starting command on the client machine and starting the application program (col. 6 lines 16-22, "a browser in resident in a client computer ... limited to e-commerce applications"). Loomans teaches the application engine determines which files will be loaded for the associated application or sub-application based on the client's operating environment (col. 7 lines 11-21, "It should be noted that ...

components and data components") for the purpose of loading additional components required during a particular user sessions.

Response to Arguments

In the remark the applicant argues that cited reference fails to disclose:

I) "loading an execution environment identifying applet from the server in response to an application program starting request".

II) "a starting command for starting the application program, on the basis of a result obtained by executing the execution environment identifying applet"

III) "judging whether the code which the application program requires is present or not on the client machine."

In response to applicant's argument,

I) Prior art Looman teaches an application engine kernel downloaded from a server to a client's browser in response to a request of a client for execution on the client's execution environment as described in column 5 lines 9-17 below:

> "In response to the URL, the server computer provides an HTTP response in the form of an HTML page generally consisting of the "expected" interface page and an embedded application engine kernel. In a preferred embodiment, the web page is an HTML frameset that transparently contains the expected interface page(s) in one frame, and the engine kernel frameset in another. The kernel is the minimum subset of components required to process and display the initial expected interface pages once loaded."

In general, an "applet" is defined as a mini software downloaded from a server to be run on a client's browser upon request. Furthermore, the functionalities of an "applet" is described in U.S. Patent 5,923,885 by Johnson et al. (column 6 lines 24-32):

> "Typically, applets provide additional functionalities to browser software by performing various computational tasks which the browser software itself is not configured to perform. Thus, users who download applets can provide the browser software with additional functionalities that are not otherwise available to the browser software"

Therefore, the application kernel engine of Looman is an applet. In addition, Looman's kernel is identifying the execution environment of the client by loading first an initial load before loading the additional components based upon the execution environment and requirements of the user requests as described in column 5 lines 17-22 below:

> "In general, the kernel undergoes bootstrapping in that it initially loads in only enough of itself sufficient to load the next larger kernel set, which, in turn, has the capacity to load additional components, and so forth until all components that are required for initial processing of user requests are present."

Accordingly, Looman teaches the limitation "loading an execution environment identifying applet from the server in response to an application program starting request".

II) It is noted that the original specification page 15 second paragraph from the bottom stated:

> "Preferably, for the simplification of explanation, codes of the local environment identifying logic 125, the required code introducing logic 127, and the application program starting logic 129 are loaded simultaneously with depression of the application program starting button 701. **However, loading of the codes need not always be simultaneous with clicking of the button 701. For example, there may be adopted a method wherein information for access to each of the codes is embedded in the bootstrap applet 123 which is loaded simultaneously with depression of the button 701,** and is acquired for each or a predetermined combination of the codes from the server 150 or another server during or before the execution of each code."

Examiner **bolded** the portion of the above text where applicant admits that the starting command can automatically be activated by way of programming and embedding within the applet. As commonly know in the art, an applet when loading from a server **must** (emphasis added) include with it a starting command (either automatic or manual in form of buttons), otherwise, the applet is practically useless. Looman's application engine kernel embedded the starting command within the kernel when loaded so it can automatically be run at the client's browser. Thus, Looman teaches the limitation for loading "a starting command for starting the application program, on the basis of a result obtained by executing the execution environment identifying applet".

III) Prior art Looman teaches column 7 lines 11-21 as show below:

> "It should be noted that **the application engine 218 interprets which files which will be loaded for the associated application, or appropriate sub-application, as well as how data will be used to fill in each of the particular UI interface elements 224-1 through 224-3**. For all subsequent demand-loads of sub-applications, the kernel 222 included in the application engine 218 provides all necessary and appropriate event handler routines in order to properly manage concurrent asynchronous threaded operations, such as demand loading of additional application engine components and data components."

The above disclosure of Looman shows that the kernel interprets (or judge) which files will be loaded (if not already loaded) to the client machine based on the associated application and demands for additional data components. Therefore, the limitation "judging whether the code which the application program requires is present or not on the client machine." is taught by Looman.

Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to examiner *Thomas Pham*; whose telephone number is (571) 272-3689, Monday to Thursday from 6:30 AM - 5:00 PM EST or contact Supervisor *Mr. Anthony Knight* at (571) 272-3687.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Thomas Pham
Patent Examiner
TP
December 9, 2004

Anthony Knight
Supervisory Patent Examiner
Group 3600